

Group IV, claim 21, drawn to a process for isolating a gene.

For the purpose of examination of the present application, Applicants elect, with traverse, Group II, claims 11-18 and 22-24.

The Examiner asserts that the above-indicated claims lack unity of invention because they fail to share the same special technical feature, because each designated group recites a different product or composition that are not capable of use together.

Applicants traverse this rejection and withdrawal thereof is respectfully requested. The Examiner appears to have analyzed whether the designated groups meet the requirement for unity of invention based on the requirements for restriction under 35 U.S.C. §121. Whether claims share a common special technical feature is not determined by whether the claimed inventions have different uses. "The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." PCT Rule §13.2

Thus, special technical feature means that all of the claimed inventions share a common patentable feature over the prior art. With the present claims, all of the claims in the different groups share the special technical feature of the antimicrobial protein as

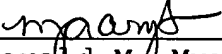
defined in claim 1. This common technical feature was recognized by the international Examiner during International Examination. As such, the present claims fully meet the requirements for unity of invention and rejoinder of the claims is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne Armstrong, PhD (Reg. No. 40,069) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
Gerald M. Murphy, Jr., #28,977

MaryAnne Armstrong, PhD #40,069

GMM/MAA/csm
0230-0157P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000